Indiana County Auditors' Conference
May 16, 2013

2013 Legislation

Department of Local Government Finance
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New Legislation

Good Morning!

Disclaimer: The purpose of this presentation is simply to alert you to legislation which may be of interest to you, it is not meant to be a substitute for reading the new laws.

(Yes, “lawyer stuff” this early in the morning…sorry!)

Cue the funny joke…

New Legislation

- The Department of Local Government Finance (DLGF) will soon issue a series of memoranda on various topics that were the subject of legislation in the 2013 session.

- It might be a good idea to index them in a notebook by topic for easy reference. There is a lot of new legislation affecting auditors!

New Legislation

- Note! HEA 1546 was vetoed by Governor Pence and has been removed from this presentation and, therefore, the related documents should be removed from your materials.
- It is possible that the veto could be overridden, however, at this time, the veto stands.

New Legislation

❖ HEA 1116:

- Amends IC 6-1.1-17-16 so that the Department of Local Government Finance ("DLGF") is not required to hold a hearing before setting a unit's budget, except as provided under IC 6-1.1-17-16.1.
- Adds IC 6-1.1-17-16.1 to provide that if a taxpayer of a political subdivision requests a public hearing before the Department reviews, revises, reduces, or increases a political subdivision's budget by fund, tax rate, or tax levy, the Department must hold the hearing in the county in which the political subdivision is located. A taxpayer may request a public hearing by filing a written request with the county auditor or directly with the DLGF in either a paper or electronic format. A county auditor must forward any requests to the Department within two business days of receipt.
- Amends IC 6-1.1-20.6-9.5 to eliminate provision requiring auditor to notify each political subdivision in which the circuit breaker credit is applied of the reduction of property tax collections.

New Legislation

❖ HEA 1568:

- Adds IC 36-7-17.1 to establish an alternative urban homesteading program and provides that the county auditor must provide to the agency administering the program a list of real property on which one or more installments of taxes are delinquent.
- Amends IC 6-1.1-24-6.8 regarding the sale of vacant parcels by the county so that:

(1) the county auditor shall:

(A) collect the purchase price from each successful tax sale applicant; and

(B) prepare a deed transferring each vacant parcel to the successful applicant, if the conditions of IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 are satisfied; and

(2) if the vacant parcel is unimproved, the township assessor or county assessor shall consolidate each vacant unimproved parcel sold and the contiguous parcel owned by the successful applicant into a single parcel.

New Legislation

❖ SEA 275:

- Amends IC 6-1.1-24-1.2(c) to require a county auditor to remove a tract of real property from a certified tax sale list if the county treasurer and the taxpayer make a written agreement for the payment of delinquent property taxes.

- Under amended IC 6-1.1-24-1.2(d), the county treasurer must provide a copy of the written agreement to the county auditor before the auditor removes the tract from the tax sale list.

New Legislation

❖ SEA 459:

- Adds IC 36-1.5-4-40.5, which governs reorganization that includes a township and another political subdivision. If all or part of a municipality in the township is not participating in the reorganization, not less than ten township taxpayers who reside within territory that is not participating in the reorganization may file a petition with the county auditor protesting the reorganized political subdivision's township assistance levy. The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the DLGF.

New Legislation

❖ SEA 544:

- Amends IC 6-3.5-1.1-1.5 (County Adjusted Gross Income Tax or CAGIT), IC 6-3.5-6-1.5 (County Option Income Tax or COIT), and IC 6-3.5-7-4.9 (County Economic Development Tax or CEDIT) so that if the commissioner of the department of revenue determines that an ordinance that imposes, increases, decreases, or rescinds a tax or a tax rate was not adopted correctly or is deficient,
  1) the commissioner must:
     A) notify the county auditor that the ordinance was not adopted correctly; and
     B) specify the corrective action that must be taken for the ordinance to be adopted correctly; and
  2) the ordinance may not take effect until the corrective action is taken.

New Legislation

❖ SEA 544 (continued):

- Amends IC 6-3.5-1.1-9 (CAGIT), IC 6-3.5-6-17 (COIT), and IC 6-3.5-7-11 (CEDIT) so that before August 2 of each calendar year, the budget agency must provide to the county auditor of each CAGIT/COIT/CEDIT-adopting county an estimate of the amount determined that will be distributed to the county, based on known tax rates. Not later than 30 days after receiving the estimate of the certified distribution, the county auditor shall notify each taxing unit of the estimated amount of property tax replacement credits, certified shares, and other revenue that will be distributed to the taxing unit during the ensuing calendar year. Before October 1 of each calendar year, the budget agency shall certify to the county auditor of each adopting county the amount plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under IC 6-3.5-1.1-9/IC 6-3.5-6-17/IC 6-3.5-7-11.

New Legislation

❖ SEA 544 (continued):

- Not later than 30 days after receiving the notice of the amount of the certified distribution, the county auditor must notify each taxing unit of the amount of property tax replacement credits, certified shares, and other revenue that will be distributed to the taxing unit under this chapter during the ensuing calendar year.

- Amends IC 6-3.5-7-27 so that if a county council adopts an ordinance to impose an additional tax for the renovation of a county courthouse, the county auditor must, not more than ten days after the vote, send a certified copy of the ordinance to the commissioner of the department of revenue, the director of the budget agency, and the commissioner of the DLGF in an electronic format approved by the director of the budget agency.

New Legislation

❖ SEA 544 (continued):

- Amends IC 6-3.5-1.1-2, IC 6-3.5-1.1-4, IC 6-3.5-1.1-3, and IC 6-3.5-1.1-3.1 to require that results of the votes on any ordinances to adopt, rescind, increase, or decrease a CAGIT can only be sent in electronic format prescribed by the director of the budget agency to the commissioner of the department of revenue, the director of the budget agency, and the commissioner of the DLGF.
- Amends IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, and IC 6-3.5-1.1-26 so that if a county council adopts a LOIT freeze tax rate, Public Safety LOIT, or income tax for property tax relief, the results of the votes on the ordinances can only be sent in an electronic format prescribed by the director of the budget agency to the commissioner of the department of revenue, the director of the budget agency, and the commissioner of the DLGF.
- Amends IC 6-3.5-6-8, IC 6-3.5-6-9, IC 6-3.5-6-11, IC 6-3.5-6-12, and IC 6-3.5-6-12.5 so that results of votes on ordinances to adopt, increase, freeze, rescind, or decrease a COIT can only be sent in electronic format prescribed by the director of the budget agency to the commissioner of the department of revenue, the director of the budget agency, and the commissioner of the DLGF.

New Legislation

❖ SEA 544 (continued):

- Also amends the following statutes, which govern COIT and CAGIT in specific counties, to require the same electronic notification: IC 6-3.5-6-28 (Howard); IC 6-3.5-6-29 (Scott); and IC 6-3.5-6-33 (Monroe).
- Amends IC 6-3.5-7-5, IC 6-3.5-7-6, and IC 6-3.5-7-7 so that when a county council votes to impose, increase, decrease, or rescind the CEDIT, the results must be sent to the commissioner of the department of revenue, the director of the budget agency, and the commissioner of the DLGF in an electronic format approved by the director of the budget agency.

New Legislation

❖ HEA 1545:

- Amends the homestead deduction statute, IC 6-1.1-12-37, to add:

(p) An individual is entitled to the deduction under this section for a homestead for a particular assessment date if:

(1) either:

(A) the individual's interest in the homestead as described in subsection (a)(2)(B) is conveyed to the individual after the assessment date, but within the calendar year in which the assessment date occurs; or

(B) the individual contracts to purchase the homestead after the assessment date, but within the calendar year in which the assessment date occurs;

(2) on the assessment date:

(A) the property on which the homestead is currently located was vacant land; or

(B) the construction of the dwelling that constitutes the homestead was not completed;

(3) either:

(A) the individual files the certified statement required by subsection (e) on or before December 31 of the calendar year in which the assessment date occurs to claim the deduction under this section; or

(B) a sales disclosure form that meets the requirements of section 44 of this chapter is submitted to the county assessor on or before December 31 of the calendar year for the individual's purchase of the homestead; and

(4) the individual files with the county auditor on or before December 31 of the calendar year in which the assessment date occurs a statement that:

(A) lists any other property for which the individual would otherwise receive a deduction under this section for the assessment date; and

(B) cancels the deduction described in clause (A) for that property.

New Legislation

❖ HEA 1545 (continued):

- An individual who satisfies the requirements of subdivisions (1) through (4) is entitled to the deduction under this section for the homestead for the assessment date, even if on the assessment date the property on which the homestead is currently located was vacant land or the construction of the dwelling that constitutes the homestead was not completed. The county auditor shall apply the deduction for the assessment date and for the assessment date in any later year in which the homestead remains eligible for the deduction. A homestead that qualifies for the deduction under this section as provided in this subsection is considered a homestead for purposes of section 37.5 [supplemental deduction] of this chapter and IC 6-1.1-20.6 [1% tax cap]. The county auditor must cancel the deduction under this section for any property that is located in the county and is listed on the statement filed by the individual under subdivision (4). If the property listed on the statement filed under subdivision (4) is located in another county, the county auditor who receives the statement must forward the statement to the county auditor of that other county, and the county auditor of that other county shall cancel the deduction under this section for that property.

New Legislation

❖ HEA 1545 (continued):

- Amends IC 6-1.1-12.1-1, which governs the definitions for the Deduction for Rehabilitation or Redevelopment of Real Property in Economic Revitalization Areas chapter, so that wherever a definition defined property or equipment installed before or after a specific date (i.e., June 30, 2000), reference to that date has been removed.
- Amends IC 6-1.1-12.1-2 so that designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction must be calculated as specified in IC 6-1.1-12.1-4.1 and the deduction is allowed for not more than the number of years specified by the designating body under C 6-1.1-12.1-17 (rather than five years as was previously the case). Provisions/references to old dates have been deleted.
- Amends IC 6-1.1-12.1-2.5 and IC 6-1.1-12.1-3 to eliminate provisions/references to old dates. In IC 6-1.1-12.1-3, deletes the provision whereby if an area is a residentially distressed area, the deduction period is not more than five years. Removes exceptions (basically wholesalers permits) to prohibition on liquor store receiving redevelopment/rehab deduction.

New Legislation

❖ HEA 1545 (continued):

- Amends IC 6-1.1-12.1-4 so that the amount of the deduction equals the product of the increase in the assessed value resulting from the rehabilitation or redevelopment multiplied by the percentage determined under IC 6-1.1-12.1-17. Deletes old deduction formula.
- Amends IC 6-1.1-12.1-4.1 as follows:

This subsection applies to deductions approved before July 1, 2013, for the redevelopment or rehabilitation of property located in economic revitalization areas that are residentially distressed areas. Subject to section 15 of this chapter, the amount of the deduction that a property owner is entitled to receive under section 3 of this chapter for a particular year equals the lesser of:

(1) the assessed value of the improvement to the property after the rehabilitation or redevelopment has occurred; or

(2) the following amount:

TYPE OF DWELLING	AMOUNT
One (1) family dwelling	$74,880
Two (2) family dwelling	$106,080
Three (3) unit multifamily dwelling	$156,000
Four (4) unit multifamily dwelling	$199,680

This subsection applies to deductions approved after June 30, 2013, for the redevelopment or rehabilitation of property located in economic revitalization areas that are residentially distressed areas. Subject to section 15 of this chapter, the amount of the deduction the property owner is entitled to receive under section 3 of this chapter in a residentially distressed area for a particular year equals the product of:

(1) the increase in the assessed value resulting from the rehabilitation or redevelopment; multiplied by

(2) the percentage determined under section 17 of this chapter.

New Legislation

❖ HEA 1545 (continued):

- Amends IC 6-1.1-12.1-4.5, which prescribes the abatement schedule. Eliminates current tables and requires use of the schedule now prescribed by IC 6-1.1-12.1-17.
- Amends IC 6-1.1-12.1-4.8, which governs the vacant building deduction. Eliminates existing formula for calculating deduction and now requires use of the schedule now prescribed by IC 6-1.1-12.1-17.
- Amends IC 6-1.1-12.1-5, IC 6-1.1-12.1-5.1, IC 6-1.1-12.1-5.4, IC 6-1.1-12.1-5.6, IC 6-1.1-12.1-5.9, to delete provisions/references to old dates.
- Amends IC 6-1.1-12.1-11.3 to make technical correction due to the repeal of IC 6-1.1-12.1-16.
- Repeals IC 6-1.1-12.1-16.
- Amends IC 6-1.1-12.1-17 to read:

(a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

(1) The total amount of the taxpayer's investment in real and personal property.
(2) The number of new full-time equivalent jobs created.
(3) The average wage of the new employees compared to the state minimum wage.
(4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter.

An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.

(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.

New Legislation

❖ HEA 1545 (continued):

- Adds IC 6-1.1-20.6-1.2 to define “common areas” for purposes of the circuit breakers:

  (a) This section applies to credit determinations after 2013.

  (b) As used in this chapter, "common areas" means any of the following:

  1) Residential property improvements on real property on which a building that includes two (2) or more dwelling units, a mobile home, or a manufactured home is located, including all roads, swimming pools, tennis courts, basketball courts, playgrounds, carports, garages, other parking areas, gazebos, decks, and patios.

  2) The land and all appurtenances to the land used in connection with a building or structure described in subdivision (1), including land that is outside the footprint of the building, mobile home, manufactured home, or improvement.

- Amends IC 6-1.1-20.6-4, so that the definition of “residential property” incorporates the definition of common areas as prescribed by IC 6-1.1-20.6-1.2.
- Repeals IC 6-3.1-25.2 (coal combustion product income tax credit). Accordingly, repeals IC 6-1.1-44-7, which provided that a taxpayer that obtains a credit under IC 6-3.1-25.2 may not obtain a coal combustion product property tax deduction.

New Legislation

❖ HEA 1545 (continued):

- Amends IC 6-1.1-26-5 so that when a refund is claimed on a property tax payment, the interest must be computed using the rate in effect for each particular year covered by the refund.
- Amends IC 6-1.1-37-9 so that when a taxpayer has to pay taxes after the conclusion of an appeal, the interest must be computed using the rate in effect for each particular year in which the interest accrued.
- Amends IC 6-1.1-37-11 so that if a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the taxpayer shall also be paid, or credited with, interest on the excess taxes that the taxpayer paid at the rate established for excess tax payments by the commissioner of the department of state revenue under IC 6-8.1-10-1. Likewise, if a taxpayer is sent a provisional tax statement and is later sent a final or reconciling tax statement, interest shall be computed after the date on which the taxes were paid or first due under the provisional tax statement, whichever is later, through the date of the refund or credit. The interest must be computed:
  1) from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit; and
  2) using the rate in effect under IC 6-8.1-10-1 for each particular year covered by the refund or credit.

New Legislation

❖ SEA 517:

- Amends IC 6-1.1-15-1 so that the $50 penalty that a taxpayer may be charged for failing to appear at an assessment appeal hearing may not be added as an amount owed on the property tax statement under IC 6-1.1-22 or IC 6-1.1-22.5.
- Amends IC 6-1.1-20-12 and IC 20-46-1-10.5 to provide that for a school corporation that conducted a referendum after November 1, 2009, and before May 1, 2010, for distributions after 2013, the county auditor shall distribute proceeds collected from an allocation area (as defined in IC 6-1.1-21.2-3) that are attributable to property taxes imposed after being approved by the voters in the referendum, to the school corporation for which the referendum was conducted. The amount to be distributed to the school corporation shall be treated as part of the referendum levy for purposes of setting the school corporation's tax rates.
- Amends IC 6-1.1-36-17 so that upon collection of the adjustment in tax due (and any interest and penalties on that amount) after the termination of a homestead deduction or credit, the county treasurer shall deposit that amount in a non-reverting fund if the county contains a consolidated city or, if the county does not contain a consolidated city:

  (A) in the nonreverting fund, to the extent that the amount collected, after deducting the direct cost of any contract, including contract related expenses, under which the contractor is required to identify homestead deduction eligibility, does not cause the total amount deposited in the nonreverting fund for the year during which the amount is collected to exceed $100,000; or

  (B) in the county general fund, to the extent that the amount collected exceeds the amount that may be deposited in the nonreverting fund under clause (A).

New Legislation

❖ SEA 517 (continued):

Any part of the amount that is not collected by the due date shall be placed on the tax duplicate for the affected property and collected in the same manner as other property taxes. The adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit shall be deposited as specified only in the first year in which that amount is collected. The amount to be deposited in the nonreverting fund or the county general fund includes adjustments in the tax due as a result of the termination of deductions or credits available only for property that satisfies the eligibility for a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9, including the following:

1) Supplemental deductions under IC 6-1.1-12-37.5;
2) Homestead credits under IC 6-1.1-20.4, IC 6-3.5-1.1-26, IC 6-3.5-6-13, IC 6-3.5-6-32, IC 6-3.5-7-13.1, or IC 6-3.5-7-26, or any other law;
3) Circuit breaker credits under IC 6-1.1-20.6-7.5 or IC 6-1.1-20.6-8.5.

Any amount paid that exceeds the amount required to be deposited shall be distributed as property taxes. Money that is deposited shall be treated as miscellaneous revenue. Distributions shall be made from the nonreverting fund upon appropriation by the county fiscal body and shall be made only for the following purposes:

1) Fees and other costs incurred by the county auditor to discover property that is eligible for a standard homestead deduction or a homestead credit.
2) Other expenses of the office of the county auditor.
3) The cost of preparing, sending, and processing notices described in IC 6-1.1-22-8.1(b)(9).

The amount of deposits in a reverting fund, the balance of a nonreverting fund, and expenditures from a reverting fund may not be considered in establishing the budget of the office of the county auditor or in setting property tax levies that will be used in any part to fund the office of the county auditor.

New Legislation

❖ SEA 517 (continued):

- Amends IC 6-1.1-20.6-2 so that for purposes of the circuit breaker credits, “homestead” refers to a homestead that has been granted a standard deduction under IC 6-1.1-12-37. This is a change from (and probably a reaction to) the IBTR ruling we talked about last time.

Contact the Department

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